

## **815 KAR 25:060. Licensing of manufactured home retailers.**

RELATES TO: KRS 227.550, 227.570, 227.590, 227.600, 227.610, 227.620

STATUTORY AUTHORITY: KRS 227.590

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.590 requires the Manufactured Home Certification and Licensure Board to promulgate administrative regulations governing the standards for the manufacture and sale of manufactured housing. E.O. 2008-507, effective June 16, 2008, reorganized the Office of Housing, Buildings and Construction as the Department of Housing, Buildings and Construction, and established the commissioner, rather than executive director, as the head of the department. This administrative regulation establishes standards for licensing persons and companies engaged in the sale of manufactured and mobile homes.

Section 1. Definitions. (1) "Established place of business" is defined by KRS 227.550(5).

(2) "Hard-surfaced lot" means an area open to the public during business hours with a surface of concrete, asphalt or macadam, compacted gravel or stone, or other material of similar characteristics.

(3) "Offer for sale" means to:

(a) Display, exhibit, sell, transfer, exchange, or otherwise advertise a manufactured or mobile home; or

(b) Negotiate the purchase, sale, or exchange of a manufactured or mobile home for a fee, commission, compensation, or other valuable consideration.

(4) "Office" is defined by KRS 227.550(11).

(5) "Registration" means the transfer of title or other official recording of change of ownership.

(6) "Retailer" is defined by KRS 227.550(4).

(7) "Suitable sign" means a permanently-erected sign with the dealership name and type in letters at least six (6) inches high and at least one and one-half (1 1/2) inches wide.

Section 2. Exemptions from Licensure as a Retailer. (1) A manufactured home shall be exempt from licensing and seal requirements if the unit:

(a) Is brought into Kentucky for exhibition purposes only;

(b) Is not sold in Kentucky; and

(c) Inspection does not reveal a condition hazardous to health or safety.

(2) Real estate developer and retailer venture. A retail license shall not be required of a developer who purchases new HUD homes from a licensed Kentucky retailer, places the homes on a parcel of land, and offers the homes for sale to ultimate consumers, if the following conditions are met:

(a) The developer receives prior written approval from the office;

(b) The home was installed by a certified installer;

(c) The developer owns the homes and the lots upon which the homes are installed;

(d) The manufacturer's warranty period begins upon possession and shall be transferred from the developer to the consumer-occupant;

(e) The manufacturer's warranty support shall be performed in accordance with generally-accepted standards for retail transactions;

(f) The manufacturer's documentation contains the name and location of the:

1. Developer;

2. Development; and

3. Retailer; and

(g) The retailer and installer provides the required services as warranted and as required by laws governing retailer and installer license or certification.

(3) Retailer's satellite location.

(a) An additional license shall not be required of a fully-licensed retailer for the display or sale of a manufactured home located on an individual lot, in a subdivision, land-lease community, or manufactured or mobile home park located within the same or adjoining county as the licensee;

(b) A suitable sign identifying the name and business location of the retailer licensee shall be posted at the location.

Section 3. License Application. (1) Except as provided in Section 2 of this administrative regulation, a person shall not engage in the business of selling manufactured or mobile homes within this state without holding a valid license issued by the office for each location.

(2) Before engaging in business, an applicant shall provide the office with:

(a) The completed Form HBCMH 2;

(b) A copy of a valid Kentucky sales tax certificate;

(c) A check or money order for the annual license fee, in the amount of \$250 for a full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, payable to the Kentucky State Treasurer;

(d) Proof of insurance for general liability coverage that complies with KRS 227.610 in the amount of at least:

1. \$200,000 bodily injury or death for each person;

2. \$300,000 bodily injury or death for each accident; and

3. \$100,000 for damage to property; and

(e) A verified statement that the applicant complies with zoning and other requirements of the local government necessary for a business to operate legally.

(3) A license, unless renewed, revoked, or suspended, shall expire on:

(a) For individuals, the last day of the licensee's birth month in the following year; or

(b) For corporations:

1. The licensee's month of incorporation in the following year; and

2. The last day of the licensee's birth month in the following year.

(4) A licensed retailer shall maintain at least minimum general liability insurance and shall notify the office of a change in insurance coverage.

(5) An applicant whose place of business is in another state and who possesses a valid retailer license in another state shall:

(a) Be licensed upon completion and submission of Form HBCMH 2 and compliance with this section;

(b) Not be required to maintain an established place of business within Kentucky, if the applicant is not offering a home for sale within Kentucky; and

(c) Provide a Kentucky seal for a used manufactured housing unit sold for delivery into Kentucky.

(6) The office shall:

(a) Issue a correction notice to an applicant within thirty (30) days of receiving a defective or incomplete applicant specifying the defect;

(b) Deem the application abandoned and the fee forfeited for an applicant who fails to submit a corrected application in accordance with the information supplied on the application correction notice, within thirty (30) days of receipt; and

(c) Process as a new application, a corrected application submitted after the thirty (30) day period.

Section 4. Qualified Personnel Required: The Certified Manager. (1) Education requirements. A new retailer license or a renewal of an existing retailer license shall not be issued unless the retailer employs at least one (1) person in a management position who has successfully completed the educational training and departmental testing program administered as part of the Certified Installer Program under 815 KAR 25:080. The proof of experience in 815 KAR 25:080, Section 2(1)(d), shall not be required.

(2) Certification. The office shall classify a person qualifying under subsection (1) of this section as a certified manager.

(3) Exception. A certified manager shall not be required at each licensed location for a retailer with more than one (1) in-state location if:

(a) The retailer has only one (1) set-up, installation, and delivery system located in Kentucky;

(b) A certified manager supervises the work of the system; and

(c) The arrangement is approved, in writing, by the office.

Section 5. Notification by Licensees. (1) A retailer shall notify the office, in writing, within thirty (30) days of a change in any of the following:

(a) Dealership name;

(b) Location of established business;

(c) Retailer ownership interest of twenty-five (25) percent or more within a twelve (12) month period; or

(d) A principal officer or chief managing officer of the firm.

(2) A change in ownership interest of less than twenty-five (25) percent of the company within a twelve (12) month period shall be reported at the time of the renewal of the license.

(3) A new license shall be required if an established business changes location to a different county.

Section 6. Maintenance of Records. A retailer shall:

(1) Maintain the following information, reported on Form HBCMH 23, for each new or used unit sold:

(a) Unit serial number;

(b) B1 or B2 seal number;

(c) Date manufactured, if known;

(d) Make and model of unit; and

(e) Name and address of purchaser;

(2) Retain the completed Form HBCMH 23, for three (3) years; and

(3) Keep the form available to a field inspector upon request.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Form HBCMH 2, Application for Manufactured Home Retailer's License", September 2007; and

(b) "Form HBCMH 23, Monthly Manufactured Home Retailer Certification Format", September 2007.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Manufactured Housing Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, between 8 a.m. and 4:30 p.m., Monday through Friday. (27 Ky.R. 2975; Am.

3257; eff. 6-8-2001; 34 Ky.R. 869; 1434; eff. 1-4-2008; 35 Ky.R. 2367; 2746; eff. 7-6-2009.)